



PREPARED FOR THE PLAN COMMISSION

Project Address: 6405 Mineral Point Road (District 9 - Ald. Clear)
Application Type: Conditional Use
Legistar File ID # [50227](#)
Prepared By: Sydney Prusak, Planning Division
Report Includes Comments from other City Agencies, as noted
Reviewed By: Kevin Firchow, AICP, Principal Planner

Summary

Applicant & Contact: Jeff Maertz; Bouril Design Studio, LLC.; 6425 Odana Road; Madison, WI 53719
Property Owner: Sue Engelke; Otto’s Restaurant and Bar; 450 Science Drive; Madison, WI 53711

Requested Action: The applicant requests approval of a conditional use to establish an outdoor eating area for a restaurant-nightclub on a property zoned SE (Suburban Employment District) at 6405 Mineral Point Road.

Proposal Summary: The applicant proposes to formally establish three (3) outdoor eating areas for an existing restaurant-nightclub. The outdoor seating areas will be located immediately adjacent to the restaurant on the two existing at grade patios and the main plaza deck. Together, the two patios have seating for up to twenty (20) customers, and the plaza deck can serve up to forty-seven (47) customers.

Applicable Regulations & Standards: This proposal is subject to the standards for Conditional Uses [M.G.O. §28.183] as M.G.O §28.082(1) lists *outdoor eating areas associated with food and beverage establishments* as conditional uses in the Suburban Employment (SE) District. The Supplemental Regulations [M.G.O. §28.151] contain further regulations for these uses.

Review Required By: Plan Commission

Summary Recommendation: The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Uses are met and **approve** the requests to establish an outdoor eating area for a restaurant-nightclub on a property zoned SE (Suburban Employment District) at 6405 Mineral Point Road. These requests are subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Background Information

Parcel Location: The 29,801-square-foot (0.68-acre) subject site is located near the southeast corner of the intersection of Mineral Point Road and S. Yellowstone Drive. While the property is addressed and accessible via Mineral Point Road, it is located behind the building at 6411 Mineral Point Road and does not have direct street frontage. The site is within both Aldermanic District 9 (Ald. Clear) and the Madison Metropolitan School District.

Existing Conditions and Land Use: The subject parcel contains a two-story, 5,447-square-foot building with an existing restaurant-nightclub. City Assessor records state that it was constructed in 1890 and underwent a major remodel in 1981.

Surrounding Land Use and Zoning:

- North:** A two-story office building, in the Suburban Employment (SE) Zoning District, with residential condominiums across Mineral Point Road in the Suburban Residential – Varied 2 (SR-V2) Zoning District beyond;
- East:** Wooded green space and retirement facility in a Planned Development (PD) Zoning District;
- South:** A retirement home, in the SE Zoning District; and
- West:** A variety of commercial uses in the SE Zoning District.

Adopted Land Use Plan: The [Comprehensive Plan \(2006\)](#) recommends Employment uses for this property. There is no adopted neighborhood plan for the subject site.

Zoning Summary: The project site is currently zoned Suburban Employment (SE).

Requirements	Required	Proposed
Lot Area (sq. ft.)	20,000 sq. ft.	29,801 sq. ft.
Lot Width	65'	200'
Front Yard Setback	None	Adequate
Side Yard Setback	15' or 20% building height	Adequate
Rear Yard Setback	30'	Adequate
Maximum Lot Coverage	75%	Maintain existing lot coverage (1)
Minimum Building Height	22' measured to building cornice	2 story existing building
Maximum Building Height	5 stories/ 68'	2 story existing building
Number Parking Stalls	No minimum required	24 21 shared stalls
Accessible Stalls	Yes	1
Loading	Not required	None
Number Bike Parking Stalls	Restaurant-tavern: 5% of capacity of persons (8)	5 (2)
Landscaping and Screening	Not required	Existing landscaping
Lighting	Not required	Existing lighting
Building Forms	Not required	Existing building
Other Critical Zoning Items	Utility Easements; Barrier Free (ILHR 69)	

Table Prepared by Jenny Kirchgatter, Assistant Zoning Administrator

Environmental Corridor Status: The subject site is not located in a mapped environmental corridor.

Public Utilities and Services: This property is served by a full range of urban services.

Previous Approvals

According to the City Clerk’s Office, Otto’s was issued a Class B Entertainment License on May 22, 2015, which permits live entertainment, including live music performances.

Project Description

The applicant, Otto’s Restaurant and Bar, proposes to formally establish an outdoor seating area for a restaurant-nightclub at their current location. Otto’s has been operating as restaurant and bar since 1987, and this application would bring them into compliance with the current Suburban Employment (SE) zoning requirements.

The 5,204 square-foot restaurant-nightclub is located in a 19th century two-story building, which has been converted for its current commercial use. The applicant is requesting a conditional use for outdoor eating areas. According to the application, there are three separate outdoor eating areas surrounding the main building. There are two at grade patios for outdoor eating, one on the east side of the building with two tables (8 person capacity) and one on the north side of the building with three tables (12 person capacity). These two patios are surrounded by small stone retaining walls that separate the dining areas from the adjacent parking lot.

There is also an outdoor eating area on the first-floor plaza deck, which is located directly above the ground-level bar area of the restaurant. This area has a 47 person capacity and has historically featured live music. According to the application, the music usually consists of small jazz combos ranging from one to four musicians. Given the proximity to the residential uses on both the east and south sides of the site, Staff recommends that there be no outdoor amplified sound as a condition of approval.

As part of this project, the applicant is looking to construct a new tent structure above the deck area to provide some shelter to restaurant patrons. The applicant also intends to build new handrails, replace the deck floor and roof membrane, and replace the existing exit staircase with one that is code compliant. In order to reduce the impervious site area, the applicant is proposing permeable pavers in one of the existing parking stalls.

As proposed, the hours of operation are 3:30 pm – 9:30 pm Monday through Saturday. The applicant is requesting to maintain a capacity of 113 seats for the indoor dining area. According to the Letter of Intent, the applicant is proposing to upgrade the unisex restroom in order for it to be fully accessible.

Analysis and Conclusion

This proposal is subject to the standards for Conditional Uses [M.G.O. §28.183] as M.G.O §28.082(1) lists *Outdoor eating areas associated with food and beverage establishments* as conditional uses in the Suburban Employment (SE) District.

According to M.G.O. §28.151, “Restaurant-Taverns shall not hold an entertainment license under Sec. 28.06(11).” Given that this establishment holds a valid entertainment license it cannot be classified as a restaurant-tavern. Furthermore, M.G.O. §28.151 states, “Restaurant-Nightclubs shall hold an entertainment license under Sec. 38.06(11).” Therefore, because this food and beverage establishment has a valid entertainment license under Sec. 38.06(11), it is classified as a restaurant-nightclub. For this proposal, the restaurant-nightclub is a permitted use in SE zoning. According to M.G.O. 28.151, “A Restaurant-Nightclub is a conditional use if established after the effective and is open between the hours of midnight and 5 a.m.”. Because the restaurant-nightclub would close at 9:30 p.m. it does not require conditional use approval. Therefore, the outdoor eating areas associated with the food and beverage establishment in SE zoning is the only conditional use request for this application.

This property has been operating as a food and beverage establishment since 1987. The outdoor eating areas associated with this use have not previously been reviewed or approved and require conditional use approval to bring them into compliance with SE zoning requirements.

Conditional Use Standards

In regards to the approval standards, the Plan Commission shall not approve a conditional use without due consideration of the City’s adopted plan recommendations, design guidelines, and finding that all of the conditional use standards of §28.183(6) M.G.O. are met. The Planning Division anticipates that if well-managed, the proposed outdoor eating areas should not result in significant impacts to the surrounding properties.

The [Comprehensive Plan \(2006\)](#) recommends Employment uses for the subject site. According to the [Plan](#), "Employment districts (as distinct from the Commercial Districts) are recommended as predominantly office, research and specialized employment areas; and generally do not include retail and consumer service uses serving the wider community. Limited retail and service establishments primarily serving employees and users of the district are encouraged." While this proposal is neither an office nor a specialized employment area, it does generally serve as a complementary service use for the area.

Conditional Use Standard #3 states that the Plan Commission must find that "the uses, values and enjoyment of other property in the neighborhood for purposes already established will not be substantially impaired or diminished in any foreseeable manner". Given that the applicant made reference to live music on the outdoor dining deck area, Staff recommends that as conditions of approval, there shall be no outdoor amplified sound. Staff believes that this condition will protect the residential neighbors to the east and south from any negative impacts resulting from the outdoor music. Both of the neighboring residential properties are senior living communities and may be more sensitive to noise.

Supplemental Regulations

M.G.O. 28.151 contains further regulations for outdoor eating areas associated with food and beverage establishments. First, primary access to the area shall be from within the establishment. According to the site plan provided, Staff believes that this requirement has been fulfilled. Second, hours of operation may be restricted and noise and lighting limits imposed as part of the conditional use approval. The Planning Division has provided conditions of approval to regulate the outdoor music and sound. Lastly, where the use is conditional, an appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the neighborhood. Staff does not believe that the applicant needs to provide additional site improvements to mitigate the impacts on surrounding properties. While there are adjacent residential uses, the properties closest to the site have commercial uses and busiest during the daytime when the restaurant is closed.

Conclusion

Staff believes that the outdoor eating area associated with the restaurant-nightclub can be found to meet the Conditional Use Approval Standards and recommends that it be approved by the Plan Commission. At the time of report writing, Staff received one comment from a neighbor on the north side of Mineral Point Road expressing concern over the duration and volume of the live music. Those comments are attached.

If approved, the Plan Commission retains continuing jurisdiction over this conditional use, meaning that should complaints be filed, the Plan Commission could take further action on this conditional use as allowed in MGO Section 28.183(9)(d).

Recommendation

Planning Division Recommendation (Contact Sydney Prusak, (608) 243-0554)

The Planning Division recommends that the Plan Commission find that the approval standards for Conditional Uses are met and **approve** the request to establish an outdoor eating area for a restaurant-nightclub on a property zoned SE (Suburban Employment District) at 6405 Mineral Point Road. These requests are subject to the input at the public hearing and the conditions recommended by the reviewing agencies.

Recommended Conditions of Approval Major/Non-Standard Conditions are Shaded

Planning Division (Contact Sydney Prusak, (608) 243-0554)

1. There shall be no amplified sound, including, but not limited to television, ambient music or musical performances, in the outdoor eating areas located at the restaurant-nightclub addressed 6405 Mineral Point Road.
2. The hours of operation for the outdoor eating area located at 6405 Mineral Point Road shall be Monday through Saturday from 3:30 pm – 9:30 pm. Future modifications to the hours of operation of the outdoor eating area may be requested by the applicant in the future as a minor alteration of the conditional use following a recommendation by the district alder.

Engineering Division (Main Office) (Contact Tim Troester, (608) 267-1995)

3. The Applicant shall submit, prior to plan sign-off but after all revisions have been completed, a digital CAD file (single file) to the Engineering Division with any private storm and sanitary sewer utilities. Show the public storm sewer and easement on the east end of the property. The digital CAD file shall be to scale and represent final construction. The CAD file shall be in a designated coordinate system (preferably Dane County WISCRS, US Ft). The single CAD file submittal can be either AutoCAD (dwg) Version 2013 or older, MicroStation (dgn) V8i Select Series 3 or older, or Universal (dxf) format and shall contain the only the following data, each on a separate layer name/level number:
 - a) Building Footprints
 - b) Internal Walkway Areas
 - c) Internal Site Parking Areas
 - d) Other Miscellaneous Impervious Areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.)
 - e) Right-of-Way lines (public and private)
 - f) Lot lines or parcel lines if unplatted
 - g) Lot numbers or the words unplatted
 - h) Lot/Plat dimensions
 - i) Street names
 - j) Private on-site sanitary sewer utilities (including all connections to public sanitary)
 - k) Private on-site storm sewer utilities (including all connections to public storm)

All other levels (contours, elevations, etc) are not to be included with this file submittal.

NOTE: Email CAD file transmissions are preferred to: bstanley@cityofmadison.com (East) or <mailto:ttroester@cityofmadison.com> (West). Include the site address in the subject line of this transmittal. Any changes or additions to the location of the building, sidewalks, parking/pavement, private on-site sanitary sewer utilities, or private on-site storm sewer utilities during construction will require a new CAD file.

4. The applicant shall submit, prior to plan sign-off but after all revisions have been completed, digital PDF files to the Engineering Division. Email PDF file transmissions are preferred to: bstanley@cityofmadison.com (East) or ttroester@cityofmadison.com (West). The digital copies shall be to scale, and shall have a scale bar on the plan set. (POLICY and MGO 37.09(2)) PDF submittals shall contain the following information:

- a. Building Footprints
- b. Internal Walkway Areas
- c. Internal Site Parking Areas
- d. Other Miscellaneous Impervious Areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.)
- e. Right-of-Way lines (public and private)
- f. Lot lines or parcel lines if unplatted
- g. Lot numbers or the words unplatted
- h. Lot/Plat dimensions
- i. Street names
- j. Stormwater Management Facilities
- k. Detail drawings associated with Stormwater Management Facilities (including if applicable planting plans).

5. Less than 4,000 sf disturbed area, no Erosion Control or Storm Water Management Permits required.

Engineering Division (Mapping) (Contact Jeff Quamme, (608) 266-4097)

The agency reviewed this request and has recommended no conditions or approval.

Traffic Engineering Division (Contact Sean Malloy, (608) 266-5987)

The agency reviewed this request and has recommended no conditions or approval.

Zoning (Contact Jenny Kirchgatter, (608) 266-4569)

6. Note the existing site currently exceeds the maximum lot coverage of 75%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures including patios, etc., and all paved areas as a percentage of the total area of the lot, with the following exceptions: sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks. The proposed site improvements may not further increase lot coverage above the maximum. Provide a detail of the pervious pavers proposed to maintain the existing lot coverage.
7. Bicycle parking for the restaurant-nightclub shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). Verify the capacity of the restaurant-nightclub to determine the bicycle parking requirement. Provide the minimum number of short-term bicycle parking stalls equal to 5% of capacity of persons (8 bicycle stalls) located in a convenient and visible area on a paved or impervious surface. Bicycle parking shall be located at least as close as the closest non-accessible automobile parking and within one hundred (100) feet of a principal entrance. Note: A bicycle stall is a minimum of two (2) feet by six (6) feet with a five (5) foot wide access area. Provide a detail of the proposed bike rack.
8. The outdoor eating areas shall meet applicable building/fire codes. The capacity shall be established for the outdoor eating areas. Occupancy is established by the Building Inspection Unit. Contact Building Inspection staff at (608) 266-4559 to help facilitate this process.
9. The restaurant-nightclub shall hold an entertainment license under Section 38.06(11) and operate in accordance to the Supplemental Regulations Section 28.151 for a Restaurant-Nightclub.

10. Per Section 28.186(4)(b), the property owner or operator is required to bring the property into compliance with all elements of the approved site plans by the date established by the Zoning Administrator as part of the site and building plan approval. Work with Zoning staff to establish a final site compliance date.

Fire Department (Contact Bill Sullivan, (608) 261-9658)

11. The total building occupancy shall remain at 137 as currently established by the Restaurant Tavern Capacity from Building Inspection unless a fire sprinkler system is provided.
12. In-fill windows on the First Floor or otherwise protect the opening in order to achieve the proposed fire separations

Water Utility (Contact Adam Wiederhoeft, (608) 266-9121)

13. The proposed development may require the installation of a fire protection/automatic sprinkler system (see also Madison Fire Department review comments); subsequently, a higher capacity water service lateral may be required to meet required flow rates (existing lateral diameter is 1.5-inch). If a new water service will be required, contact Madison Water Utility Engineering Section to evaluate service connection options, confirmation of water meter size, or any applicable customer account revisions.